

**REMARKS**

**Status of the Claims**

In accordance with the foregoing, claims 1 and 12 have been amended and claim 17 has been canceled, without prejudice or disclaimer. Claims 1-16 are pending and under consideration. Respectfully, the rejection is traversed.

**Entry of Response Under 37 C.F.R. §1.116:**

Applicants request entry of this Rule 116 Response and Request for Reconsideration because the amendments were not earlier presented because the Applicants believed in good faith that the cited prior art did not disclose the present invention as previously claimed.

The Manual of Patent Examining Procedures sets forth in §714.12 that "[a]ny amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, §714.13 sets forth that "[t]he Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

**Allowable Subject Matter**

Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Claim Rejections under 35 USC § 103**

Claims 1-3, 5-9, 11-15 and 17 stand rejected under 35 USC §103(a) as being unpatentable over Applicant Admitted Prior Art (AAPA) (specification Fig. 15, pages 1-5, lines 17-2 and page 9, lines 9-18) in view of Kajiya (7,092,643), and in further view of Mikkelsen (Photonics Technology Letters, IEEE; Vol. 12, Issue 10, Oct. 2000, pages 1400-1402) and in further view of Griffin (2004/0081470). This rejection is respectfully traversed.

Amended claim 1 recites "the bit rate of each signal light after separation **being equivalent** to a bit rate of one signal light that constitutes the TDM signal light before being inputted to the separating apparatus" (emphasis added).

Kajiya relates to a Mach-Zehnder (MZ) optical modulator that modulates an output optical signal based on a modulation signal. The MZ optical modulator outputs the output optical signal that is turned ON/OFF in proportion to the modulation signal. A modulation factor is set as a suitable bias voltage and is applied to the MZ optical modulator, an initial phase is set to 0, and a

sinusoidal wave of a repetitive frequency is input as the modulation signal. Consequently, the output optical signal is "output as an optical signal that is turned ON/OFF in the repetitive frequency  $2F_c$  that is two times the repetitive frequency." See col. 1, lines 18-65. The MZ optical modulator modulates the continuous wave light.

The AAPA relates to a configuration of a separating apparatus where the time division multiplexed signal light is branched into two and one branched light is supplied to a unit 100A on a clock extraction side, and the other branched light is supplied to a unit 100B on a time division separation side of the signal light. Units 100A and 100B are in common in the point of separating the time division multiplexed signal light of 160 Gb/s into 10 Gb/s signal light, and in each of the units 100A and 100B, two optical gates 101 and 102 each using the electro-absorption type optical modulator are serially connected.

The Examiner stated on page 5 that "the combination of AAPA and Kajiya does not disclose that the transmittance of the first optical gate is periodically changed in accordance with a repetition frequency of greater than 2 times the bit rate of the signal light" and relies on Mikkelsen to disclose this feature.

Fig. 1 of Mikkelsen discloses a time division multiplexed (TDM) signal inputted to a first EA modulator of the demultiplexer, which is formed by multiplexing 16 channels of 20 Gb/s. See page 1400, col. 2, lines 3-5). For this inputted TDM signal, the first EA modulator is a signal at 10 Gb/s. See page 1401, col. 1, second paragraph.

Furthermore, Griffin, which is cited in combination with Mikkelsen, merely relates to an MZ intensity modulator. The AAPA, Kajiya, Mikkelsen, and Griffin fail to teach or suggest "the bit rate of each signal light after separation **being equivalent** to a bit rate of one signal light that constitutes the TDM signal light before being inputted to the separating apparatus," (emphasis added) as recited in claim 1.

Accordingly, claim 1 patentably distinguishes over the cited art. Claims 2-3, 5-9 and 11-15 depend from claim 1 and include all of the features of that claim, plus additional features. For at least the reasons stated above, claims 2-3, 5-9 and 11-15 patentably distinguish over the cited art.

Claim 4 stands rejected under 35 USC §103(a) as being unaparentable over AAPA in view of Kajiya and further in view of Mikkelsen, Griffin and Way (2002/0135838). Claim 4 depends from claim 1 and includes all of the features of that claim, plus additional features. Furthermore, nothing has been found or cited in Way that cures the deficiencies in regards to the AAPA in

view of Kajiya, Mikkelsen, and Griffin. Accordingly, claim 4 patentably distinguishes over the cited art.

Claim 10 stands rejected under 35 USC §103(a) as being unpatentable over AAPA in view of Kajiya and further in view of Mikkelsen, Griffin, and Kartalopoulos (Introduction to DWDM Technology: Data in a Rainbow, NJ, IEEE Press, 2000, page 109). Claim 10 depends from claim 1 and includes all of the features of that claim, plus additional features. Furthermore, nothing has been found or cited in Kartalopoulos that cures the deficiencies in regards to the AAPA and Kajiya and further in view of Mikkelsen and Griffin. Accordingly, claim 10 patentably distinguishes over the cited art.

#### **CONCLUSION**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: 11/11/08

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